

a third lumen located on the opposite side of said first septum, said inner tube, and said second septum;

b. a frustoconical distal tip section at said distal end of said outer tube enclosing said distal end of said inner tube, the outer wall of said distal tip section tapering radially inwardly from said distal end of said outer tube into engagement with said inner tube at [the free] said distal [tip] end thereof, said outer wall of said distal tip section terminating at said [free] distal end of said inner tube and thereat defining an open apex of said distal tip section through which said first lumen communicates with the exterior of said distal tip section; and

c. access means attached to said proximal end of said outer tube and said proximal end of said inner tube for affording fluid communication individually with said first lumen, said second lumen, and said third lumen.

REMARKS

1. Background

Claims 24-42 were pending.

In the Office Action formal objections were interposed in relation to selected claims. All claims were rejected under the judicially created doctrine of double patenting.

In response, formal defects in selected claims have been remedied by amendment, and three (3) terminal disclaimer documents are being submitted herewith.

2. Amendments to the Claims

It is proposed to amend Claims 24, 30, 34, and 39 as set forth above. The amendments to these claims are formal in nature and do not add new matter.

Accordingly, entry of the above-listed amendments to Claims 24, 30, 34, and 39 is respectfully requested.

In Claims 24 and 39, the recitation "free distal tip" has been eliminated in favor of the recitation "distal end," for which antecedent basis does exist.

It is respectfully submitted, accordingly, that Claims 24 and 39 as amended and presented herein overcome the formal objection interposed relative thereto in the Office Action.

Claim 30 has been amended to depend from Claim 29 as explicitly suggested in the Office Action.

Accordingly, it is respectfully submitted that Claim 30 as amended and presented herein resolves the objection interposed thereagainst in the Office Action.

Claim 34 has been amended as suggested in the Office Action to recite that it is the area of the transverse cross section of the second and third lumens, rather than of the second and first lumens, that is being compared.

It is respectfully submitted that Claim 34 as amended and presented above resolves the formal objection interposed thereagainst in the Office Action.

3. Responses to Double Patenting Rejections

In the Office Action pending Claims 24-42 were rejected under the judicially created doctrine of double patenting in relation to Claims 1-33 of United States Patent No. 5,195,962 (hereinafter “the ‘962 Patent”).

In response, transmitted herewith is an original Terminal Disclaimer “A” with Exhibits A-G attached that has been executed by one having authority to do so on behalf of the common owner of the above-captioned application and the ‘962 Patent. Terminal Disclaimer “A” disclaims the terminal part of the term of any patent granted from the above-captioned application that “would extend beyond March 23, 2010, the normal expiration date of the full statutory term of the ‘962 Patent” and agrees that any patent granted from the above-captioned application “shall be enforceable only for and during such period as the legal title in that patent shall be in the same entity as the legal title in the ‘962 Patent.”

Accordingly, it is respectfully submitted that the rejection of pending Claims 24-42 under the judicially created doctrine of double patenting in relation to the ‘962 Patent should be withdrawn.

In the Office Action pending Claims 24-42 were rejected under the judicially created doctrine of double patenting in relation to Claim 1 of United States Patent No. 5,472,417 (hereinafter “the ‘417 Patent”).

In response, transmitted herewith is a Terminal Disclaimer “B” with Exhibits A-G attached that has been executed by one having authority to do so on behalf of the common owner of the above-captioned application and the ‘417 Patent. Terminal Disclaimer “B” disclaims the terminal part of the term of any patent granted from the above-captioned application that “would extend

beyond December 5, 2012, the normal expiration date of the full statutory term of the '417 Patent" and agrees that any patent granted from the above-captioned application "shall be enforceable only for and during such period as the legal title in that patent shall be in the same entity as the legal title in the '417 Patent."

Accordingly, it is respectfully submitted that the rejection of pending Claims 24-42 under the judicially created doctrine of double patenting in relation to the '417 Patent should be withdrawn.

In the Office Action pending Claims 24-42 were rejected under the judicially created doctrine of double patenting in relation to Claims 1-23 of United States Patent No. 5,797,869 (hereinafter "the '869 Patent").

In response, transmitted herewith is a Terminal Disclaimer "C" with Exhibits A-G attached that has been executed by one having authority to do so on behalf of the common owner of the above-captioned application and the '869 Patent. Terminal Disclaimer "C" disclaims the terminal part of the term of any patent granted from the above-captioned application that "would extend beyond March 23, 2010, the currently terminally disclaimed term of the '869 Patent" and agrees that any patent granted from the above-captioned application "shall be enforceable only for and during such period as the legal title in that patent shall be in the same entity as the legal title in the '869 Patent."

Accordingly, it is respectfully submitted that the rejection of pending Claims 24-42 under the judicially created doctrine of double patenting in relation to the '869 Patent should be withdrawn.

4. Conclusion

It is respectfully submitted that all formal issues have been resolved and that all double patenting rejections have been overcome.

Accordingly, reconsideration by the Examiner is respectfully requested and the allowance of Claims 24-42 as amended and presented herein.

In the event that the Examiner finds any remaining impediment to a prompt allowance of this application, if that impediment could be resolved by a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned.

DATED this 17th day of May, 2000.

Respectfully submitted,



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